



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

June 2, 2006



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Malheur County Plan Amendment
DLCD File Number 001-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 16, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Ron Eber, DLCD Farm/Forest Specialist
Steven Santos, DLCD Economic Development Planning Specialist
Jon D. Beal, Malheur County

<paa> ya/

FORM 2

DLCD NOTICE OF ADOPTION

DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

MAY 30 2006

(See reverse side for submittal requirements)

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: Malheur County Local File No.: 2006-03-021
(If no number, use none)

Date of Adoption: May 24, 2006 Date Mailed: May 26, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: February 15, 2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Exception to Goal 3, Agricultural Lands
Zone change from EFU to M-1, Light
Industrial

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from: EFU to M-1

Zone Map Changed from: EFU to M-1

Location: Parcel #1, Partition Plat Acres Involved: 8.093

Specify Density: Previous: 93-3 New: _____

Applicable Statewide Planning Goals: Goal 3

Was an Exception Adopted? Yes: No:

DLCD File No.: 001-06
(15021)

DEPT OF

MAY 30 2006

Did the Department of Land Conservation and Development receive a notice of Proposed
Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:
LAND CONSERVATION AND DEVELOPMENT

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: _____

DLCD, ODOT, Malheur County

Local Contact: Jon D Beal Area Code + Phone Number: 541-473-5185

Address: 251 B. St W. # 12 City: Uale, Oregon

Zip Code+4: 97918 Email Address: jbeal@malheurco.or.

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE 156

FILED
1:08 PM

MAY 24 2006

In the matter of:

Ordinance Amending Malheur County's Comprehensive Plan To Adopt An Exception to Statewide Planning Goal 3(Agricultural Lands) For A Portion (8.093 acres) of Tax Lot 100, Assessor's Map 18S4717 (the Property) and Amending Malheur County's Zoning Maps to Rezone the Property from EFU to M-1, Light Industrial

DEBORAH R. DELONG County Clerk
By *[Signature]* Deputy

This matter came before the Malheur County Court sitting in regular session for the reading of this ordinance on May 10 and May 24, 2006.

WHEREAS, Robert and Sheryl Baker (Bakers) and Roadrunner Towing, Inc. (Roadrunner) submitted an application to the Malheur County Planning Commission requesting an amendment to Malheur County's Comprehensive Plan to adopt an exception to Statewide Planning Goal 3 (Agricultural Lands) for a 8.093 acre portion of tax lot 100, Assessor's Map 18S4717 (the Property) and to rezone the Property from Exclusive Farm Use (EFU) to Light Industrial (M-1); and

WHEREAS, tax lot 100, Assessor's Map 18S4717 consists of a total of 9.217 acres. It is bisected by two zoning designations. 1.124 acres along Highway 201 are zoned commercial use and will remain in this zone. The remaining 8.093 acres is legally described on Exhibit "1" attached hereto and incorporated herein by reference (the Property) and will be rezoned from EFU to M-1; and

WHEREAS, following a quasi-judicial land use hearings on April 27, 2006, the Malheur County Planning Commission made a recommendation to the Malheur County Court, which was supported by findings of fact and conclusions of law, to approve the application by Bakers and Roadrunner; and

WHEREAS, attached hereto as Exhibit "2" and incorporated herein by reference are findings of fact and conclusions of law in support of this ordinance and approving Bakers/Roadrunner's application to amend Malheur County's Comprehensive Plan to adopt an exception to Statewide Planning Goal (3) for the Property and to amend the Malheur County Zoning Maps to rezone the Property from EFU to M1, (Findings of Fact and Conclusions of Law); and

WHEREAS, the Malheur County Court adopts the Findings of Facts and Conclusions of Law and finds that they set forth compelling facts and reasons to justify an amendment to the County's Comprehensive Plan to adopt an exception to Statewide Planning Goals 3 for the Property and to rezone the Property from EFU to M1.

**NOW THEREFORE, THE MALHEUR COUNTY COURT, STATE OF OREGON,
ORDAINS AS FOLLOWS:**

Section 1: Amend Comprehensive Plan

The Malheur County Comprehensive Plan shall be amended to adopt an exception to Statewide Planning Goal (Agricultural Lands) for a 8.093 acre portion of tax lot 100, Malheur County Assessor's Map 18S4717, which property is more particularly described in Exhibit "1" attached hereto and incorporated herein by reference (The Property).

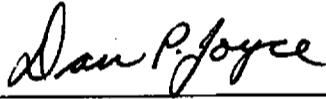
Section 2: Rezone and Amend Zoning Maps

The Malheur County Zoning Map shall be amended as shown on Exhibit "3", attached hereto and incorporated herein by reference, and the Property shall be rezoned from Exclusive Farm Use (EFU) to M-1, Industrial Zone.

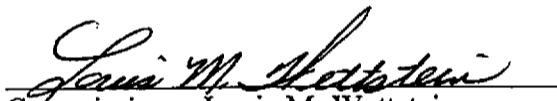
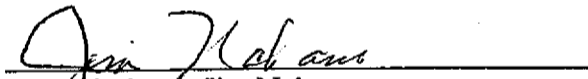
Section 3. Effective Date:

This ordinance shall take effect on the 91st day after the date of its adoption.

ADOPTED this 24th day of May 2006.



Judge Dan P. Joyce


Commissioner Louis M. Wettstein
Commissioner Jim Nakano

ATTEST:

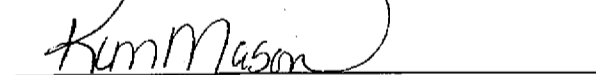

Kim Mason

Exhibit "1"

INSTRUMENT NO. 2006 -3849
Page 3 of 35 Pages

Land in the NW1/4NW1/4 of Section 17, T. 18 S., R. 47 E., W.M., Malheur County, Oregon as follows:

The East 510.00 feet of Parcel No. 1 of Partition Plat 99-3, Instrument No. 99-176 recorded January 7, 1999, in slide 89, Malheur County Plat Records more particularly described as follows:

Commencing at the NW Corner of said Section 17, said corner also being Station 692+19.54 of State Highway 201;
thence S. 00° 00' 00" E., along the West line of said Section 17 and said Highway center line, 29.69 feet to Station 691+89.85;
thence N. 90° 00' 00" E., at right angles to said West Section line and centerline, 87.12 feet, to the east right of way of said Highway 201, said point also being the NW corner of said Parcel No. 1 of said Partition Plat 99-3;
thence N. 89° 47' 50" E., parallel to and 30.00 feet south of the North line of said Section 17, being coincident with the North line of said Parcel No. 1, a distance of 145.88 feet to the POINT OF BEGINNING;
thence continuing along said North line, N. 89° 47' 50" E., a distance of 510.00 feet to the NE Corner of said Parcel No. 1;
thence S. 00° 00' 00" W., coincident with the East line of said Parcel No. 1, a distance of 692.17 feet to the SE Corner of said Parcel No. 1;
thence N. 90° 00' 00" W., coincident with the South line of said Parcel No. 1, a distance of 510.00 feet to the most SW Corner of said Parcel No. 1;
thence N. 00° 00' 00" E., coincident with the West line of said Parcel No. 1, a distance of 376.04 feet, to a Westerly Corner of said Parcel No. 1;
thence leaving said West line and continuing N. 00° 00' 00" E., a distance of 314.33 feet to the POINT OF BEGINNING.

Containing 8.093 Acres, more or less.

Map 18S4717; portion of Tax Lot 100; portion of reference No. 7767, code 15

**FINDINGS OF FACT
AND
CONCLUSIONS OF LAW**

INSTRUMENT NO. 2006-3849
Page 1 of 35 Pages

I. GENERAL INFORMATION FOR APPLICATION

1. Applicant.

Robert and Sheryl Baker and Roadrunner Towing, Inc.
(541) 889-6161
3988 Highway 201
Ontario, OR 97914

2. Applicants Representative .

Scott K. Warner
Yturri Rose LLP
Attorneys at Law
89 SW 3rd Avenue
PO Box S
Ontario, OR 97914
(541) 889-5368

3. Nature of Application.

Roadrunner Towing applies to amend the Malheur County Comprehensive Plan and Zoning Map to rezone 7.22 acres from EFU Farm Use to M-1 Light Industrial Use.

4. Specific Directions to the Subject Property.

The property is located at the Southeast corner of Highway 201 and Southwest 18th Avenue, South of Ontario, Oregon.

5. Specific Description of Subject Property.

T 18 R 47 Sec(s). 17
Assessors Map No(s): 18S4717
Tax Lot No(s): 100
Computer Reference No(s): 7767

Land in Malheur County, Oregon, as follows:
In Twp. 18 S., R. 47 E., W.M.:
Sec. 17: A parcel of land in the NW1/4NW1/4 being
Parcel No. 1 of Partition Plat No. 99-3 filed
January 7, 1999, Inst. No. 99-176, official records.

6. General Description of Subject Property.

6.1 Current Use. The property is currently vacant. The property is bisected by two zoning designations. Two acres along Highway 201 is zoned for commercial use, the remainder is in exclusive farm use. The portion zoned exclusive farm use has a Conditional Use Permit for commercial use in conjunction with farm use. Under ORS 215.283, Commercial activities that

which enhance the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates. Stroup v. Clackamas County, 28 ORLUBA 109 (1994).

6.2 Topography. The property is flat ground.

6.3 Does It Front A Public Road? Yes, Highway 201 and SW 18th Avenue.

6.4 What Buildings Are On The Property? There is currently a 20,396 square foot metal shop building with a cement floor on the property. All property outside the building has been graveled with approximately twelve inches of pit run gravel. Approximately 4 acres of the property is fenced with galvanized chain link fence.

6.5 Does the Property Have Water Rights Attached To It? The property does not have water rights. The property lies within the Owyhee Irrigation District, but there are no irrigation rights to the property.

6.6 Means of Water Supply. Well.

6.7 Means of Sewage Disposal. Septic.

6.8 Is the Parcel Located Within a Rural Fire Protection District? Yes. The property is within Ontario Rural Fire Protection District 7-302.

7. General Description of Surrounding Uses.

The property is bordered on the West by Highway 201 and the East by SW 18th Avenue. West across Highway 201 is the Murakami farm dwelling and farm land. Northeast across the intersection of Highway 201 and SW 18th Avenue is Hollingsworths/John Deere dealership. North of 18th Avenue is farm land. East of the property is farm land. The closest residence to the East is approximately one mile. South of the property is farm land. The closet residence to the South is approximately one-half mile.

8. Map and Exhibits.

A Tax Lot Map is attached to this application as *Exhibit A*.

II. **FACTUAL INFORMATION SPECIFIC TO THE REQUESTED USE**

1. General Information and History Regarding the Property.

The property is a 9.22 acre parcel in Malheur County with approximately two (2) acres zoned commercial and the remainder zoned exclusive farm use. The portion zoned exclusive farm use has a Conditional Use Permit to allow an agriculture related commercial use. In Malheur County, the most probable

agriculture related commercial use would be a farm equipment dealership and repair shop.

This property was purchased by Dave Cook/Ontario New Holland in January, 1999. The Cooks and Ontario New Holland developed the property for a farm implement dealership and repair shop. Ontario New Holland went out of business and the property was sold at Trustees Foreclosure Sale on October 31, 2003. For over two years the property has been vacant. The property was listed with Realtors, but was not finally sold until July, 2005.

The property is developed with a 20,396 square foot metal shop building with a cement floor and a cyclone fenced yard of approximately four (4) acres. The entire parcel has been graveled with pit run gravel approximately one (1) foot thick.

2. Roadrunners Use is Unique and Must Be Located Outside Urban Areas.

Roadrunners facility must be located outside urban areas and in a location where cranes and recovery vehicles are not required to pass through urban areas.

Roadrunners business is unique to all others. Roadrunner does more heavy recovery work than any other tower in Oregon or Idaho. All major East, West, North and South travel routes in Eastern Oregon and Western Idaho pass through the Ontario, Oregon area. Those routes include Interstate 84, US Highway 20, US Highway 26, US Highway 95, US Highway 52, US Highway 201, and US Highway 78. Temperatures in the area sometimes reach over 110 degrees in the Summer and the temperature may drop below zero degrees in the Winter. Much of the recovery work done by Roadrunner is on semi-tractors/trailers and motor homes. The extreme weather conditions cause mechanical failures and accidents.

Roadrunner covers a broad geographical area from the Nevada State line to Baker City, Oregon and from Canyon County, Idaho to Burns, Oregon. No other towing and recovery company in Oregon or Idaho covers such a broad geographical area with as much truck traffic.

Roadrunner plays an important role in keeping highways open so commerce can flow through Western Idaho and Eastern Oregon. Police agencies in the area rely on Roadrunner to respond to emergencies. Police agencies require immediate removal of disabled vehicles blocking traffic. Many times cargo must also be recovered immediately to preserve its value and meet shipment deadlines.

Roadrunner has grown its business by having the right equipment to respond and clear the roadway quickly, and by having the ability to recover perishable cargo.

Roadrunner has been a growing business and has invested substantially in a fleet of recovery vehicles. Roadrunner maintains four one ton or Class A recovery trucks in Ontario. A Class A truck is for recovery of vehicles weighing less than 4,000 pounds, a passenger vehicle. Roadrunner maintains six Heavy or Class C and D recovery trucks in Ontario. A Heavy is a recovery truck capable of recovering vehicles in excess of 4,000 pounds. Roadrunner maintains five cranes. The cranes are used on vehicle recovery and in local construction jobs. Roadrunner maintains an air bag recovery system which can be used to set a tractor trailer upright when it has laid over on its side. Roadrunner also maintains flagging equipment, crew cars, various trucks and trailers, all used in salvage and recovery operations. Photos of recovery vehicles are attached as Exhibit B.

Heavys recover disabled semi tractor/trailers and motor homes. The calendar year 2003 provides a representative example of the Heavy recovery work done by Roadrunner. In 2003, Roadrunner dispatched 407 Heavys to respond to accidents and disabled vehicles, more than one truck for each day of the year. Roadrunner's busiest month was December, 2003 with 54 dispatched Heavys. The next busiest month was August, 2003 with 46 dispatched Heavys. Roadrunner's busiest day was December 31, 2003 with 14 Heavys dispatched in one day. From December 28 through December 31, 2003 Roadrunner dispatched 19 Heavys to recover disabled vehicles, mostly trucks. The least Heavys dispatched in any one month in 2003 was 19 total dispatched. In addition to the Heavy recovery trucks, in 2003 Roadrunner dispatched 257 crane calls and 918 calls on vehicles weighing less than 4,000 pounds. Some of the crane work was on disabled vehicle recovery. Calls for Heavy recovery work on disabled trucks occurs on a consistent basis throughout the year. On average, Roadrunner dispatches more than one Heavy recovery truck each day of the year.

The size, weight and condition of the loads recovered by Roadrunner are not appropriate for moving through urban areas. Roadrunner's Heavy recovery trucks recover a semi tractor and trailer at one time. The Heavy recovery truck can hydraulically lift the front of the semi tractor and move it with the loaded trailer connected to the semi tractor. Please see photos attached as Exhibit B. The Heavy recovery truck steers and controls the load. The disabled tractor/trailer weighing 100,000 pounds relies on the steering and brakes of the 40,000 pound recovery truck. A Heavy recovery truck with a semi-tractor, trailer and pup trailer attached is 128 feet long. Because of the length of a Heavy and the recovered vehicle together, corners on urban streets are difficult or unmanageable. The length of the load, the manner in which the disabled truck is lifted by the recovery vehicle, and the weight of the Heavy and recovered vehicle, make quick stops in urban areas dangerous. Sharp turns are also dangerous. Many of the same issues of maneuverability apply to the Heavy cranes. It is not appropriate to move this Heavy equipment and recovered loads through urban areas.

Some recovered vehicles are not appropriate for transfer through urban areas because of their condition or the type of cargo. Some wrecked vehicles have the potential of leaking hazardous material such as diesel, antifreeze or damaged cargo which may be hazardous. Roadrunner has recovered loads of paint, pesticides, herbicides, chemicals, fuel and other dangerous substances. Cargo on recovered vehicles may include chemicals and other dangerous materials. Many times, during difficult weather, police and transportation department personnel must reopen the roads after an accident quickly. The wrecked truck is picked up and secured by Roadrunner with a Heavy recovery truck. The wrecked truck and cargo are hauled back to Roadrunners yard. At Roadrunners yard, the cargo is further secured and arrangements for off loading and transport to the original or a new destination are made. In performing the recovery, Roadrunner secures the load for short distance transport. For safety reasons, recovered vehicles should not be transported through urban areas.

Noise and odor associated with recovering disabled vehicles is not appropriate in urban areas. Roadrunners recovery trucks and cranes have large diesel engines. Many times several trucks and more than one crane may be needed on one accident. Roadrunner is called out at all times of the day and night to recover wrecked and disabled trucks. Some of these disabled vehicles have loads that omit odors. Reefer units for cooling or heating cargo run on diesel engines and omit noise. Responding to calls for recovery through urban areas and transporting disabled vehicles through urban areas disrupts urban land uses.

Activities associated with caring for the disabled vehicles and cargo are not compatible with urban uses. Once the highway is cleared and the disabled vehicle and cargo have been returned to Roadrunners facility, the cargo must be cared for and preserved. Some cargo must be kept cool or heated with reefer units, a diesel cooling unit on the trailer holding the cargo. Reefer units omit noise, cycling on and off when temperature adjustment is needed. Because some cargo is perishable and because time may be of the essence, cargo may be unloaded and loaded on a new truck immediately upon reaching Roadrunners yard. These operations can occur at all times of the day and night. Further, trucking companies come into Roadrunners yard at all times of the day and night to pick up recovered loads and disabled trucks. These activities are not compatible with urban uses.

Roadrunners business is unique. The impacts on urban streets and surrounding properties require that Roadrunners business be located outside urban areas on property where access avoids urban areas.

3. Roadrunner Must Have A Parcel Of At Least 9 Acres To Accommodate Its Uses .

Roadrunner must have a parcel of at least 9 acres to

accommodate its use. Minimum requirements for Roadrunner s recovery business include: (1) a secure indoor storage area sufficient to house police impounds, perishable commodities and other cargo, and disabled vehicles; (2) a fenced, secure yard of sufficient size to accommodate several disabled semi tractor trailers at one time and store Roadrunners own recovery vehicles; (3) an area sufficient to off load and shift cargo from one semi tractor trailer to another; (4) shop area sufficient for Roadrunner to maintain its own vehicles; (5) business office area for dispatcher and processing recovered vehicles and cargo loads; and (6) yard that is sufficient to store and maneuver recovered vehicles and cranes.

(A) Indoor Storage.

Roadrunner must have an enclosed building for storage of recovered vehicles and cargo of 10,000 square foot to store police impounds, recovered vehicles and cargo. Roadrunner tows police impounds. Some police impounds must be kept in a locked, secure building to preserve evidence for criminal prosecution. Recovered vehicles and cargo should be stored in an indoor facility to protect the contents for the owners. Semi tractor trailers with cargo sometimes must be protected from the weather and secured indoors to prevent theft.

The towing industry recommends 160 square feet of storage for a passenger vehicle and 700 square feet of storage for a semi tractor trailer combination. See September, 2005 Tow Times, Parking Impounds and Storage.

In 2003, Roadrunner stored passenger vehicles (cars and pickups) a total of 3,431 days. Roadrunner recovered 918 passenger vehicles in 2003. The average storage for each vehicle is 3.74 days. The average daily number of passenger vehicles recovered is 2.5 per day. If each is stored 3.74 days, the shop area necessary is 1,496 square feet. At times of bad weather, the area required for passenger vehicles may double to 3,000 square feet or more.

Storage requirements for semi tractor trailer combinations and motor homes depends on the weather. Roadrunner estimates it should have the ability to store up to 5 tractor trailers at a time. The indoor storage area required to store 5 tractor trailer combinations is 3,500 square feet. On Roadrunners busiest day in 2003, Roadrunner recovered 20 vehicles. Fourteen of those vehicles were tractor trailer combinations. If all vehicles required indoor storage, the indoor storage area required would be 9,800 square feet for the tractor trailer, and 960 square feet for the passenger vehicles.

Accounting for the seasonal fluctuations, and providing room to shift vehicles around, Roadrunner must have indoor storage of 10,000 square feet. The total area necessary to accommodate the storage function of Roadrunners business requires one acre, accounting for the building and room to move vehicles in and out of the facility.

(B) Repair and Storage Facility for Roadrunners Own Vehicles.

Roadrunner must have indoor storage for its recovery trucks. Roadrunner maintains six Heavy recovery trucks and four smaller recovery trucks. In the Winter, these recovery trucks must be stored indoors. The trucks recovery systems operate on hydraulics. If the hydraulic oil is cold when the truck leaves the shop on a necessary call, the trucks systems may not operate properly. The recovery trucks have tools and controls outside on the deck of the truck. If the trucks are parked outside during the Winter, tools can freeze down on the deck and moisture can get into the controls and freeze. During the winter, recovery trucks must be stored indoors.

In addition, Roadrunner maintains thirteen other vehicles and trailers of various sizes including four semi tractor trailers (two flat beds and one reefer trailer, four axle low boy, landoll trailer), a crew van, sign trailer, two safety cars with equipment to flag wrecks and for traffic control.

Roadrunner must have an indoor shop to build and rebuild its own recovery vehicles. Recovering wrecked and disabled vehicles damages Roadrunners own equipment. Most of the recovery vehicles should be parked indoors during the Winter to be in a condition to respond to accidents. Roadrunner needs a shop area of 7,500 square feet to accommodate these uses. The total area necessary to accommodate Roadrunners own shop is two acres.

(C) Office Facility.

Roadrunner employs three people as office staff during the day and one night dispatcher at night. In addition, Roadrunner employs eight full time employees. Roadrunner must have 1,000 square foot of office space for office functions and records storage for the business.

(D) Outdoor Yard.

Roadrunner must have an outdoor yard of at least seven acres. The large equipment operated by Roadrunner requires room to store and move around. Roadrunners 20 ton crane must have a quarter of an acre to turn around. The circumference of the 20 ton cranes turning circle is 122 feet. Roadrunner operates five large cranes.

Cargo is frequently transferred off one disabled semi tractor trailer to another so the cargo can continue to its destination. An acre is necessary to transfer cargo from one standard semi trailer to another. Two regular semi tractor trailers backed together are 156 feet long. Add in the space necessary between them to move a hyster, or hand crew off loading cargo from one to the other, and the length of space necessary is 200 lineal feet. A square area 200 feet by 200

feet is necessary to perform this operation. An area 200 feet long and 200 feet wide is 40,000 square feet, approximately an acre (43,560 sq. ft. = one acre).

Trucks and cargo trailers may also be stored outside waiting for the owners to move them to a repair facility or salvage yard. Roadrunner also stores some of its own equipment outdoors including its four semi trailers, some of the recovery vehicles, crew vans, cranes, sign equipment and other equipment.

When several operations are performed at once, seven acres or more is needed to perform the operations.

A map showing operations on the Property is attached as Exhibit C.

In summary, a property for Roadrunners use must have the following characteristics:

- (a) Size of at least 9 acres.
The property must be sufficient in size to allow for storage of Roadrunners equipment, including large recovery vehicles and cranes, and still allow room for recovered vehicles to be safely brought on the property, maneuvered and stored. In addition, the property must have adequate room for a large shop building for Roadrunner to repair its own equipment, store recovered vehicles, perishable commodities and store police impounds.
- (b) Topography.
The property must be all one level and the ground must be level to safely maneuver the large equipment, including trucks and cars attached to recovery vehicles.
- (c) Access.
The property must have immediate access to main transportation routes in the area to allow for quick response times in responding to a call and to allow for safety in moving recovered vehicles back to the property.
- (d) The property must be located outside urban areas.
For safety in moving disabled vehicles, and moving Roadrunners own large equipment, the property must be located outside urban areas. The property must be in a location that does not require Roadrunner to travel through residential neighborhoods or commercial business districts with the Heavy equipment and recovered vehicles.

Roadrunners business is unique, and operating the business requires a unique property with the characteristics set out above.

III. ANALYSIS OF STATEWIDE PLANNING GOALS

The Comprehensive Plan amendment and Zoning Map amendment will require an exception to State Goal 3. No other Goal exception is required.

1. Goal 1, 2 and 4.

The Countys land use code and application procedure satisfy Goal 1. Goal 2 is the exceptions goal. Goal 4, Forest Land, does not apply.

2. Goal 5 - Open Space, Scenic and Historic Areas and Natural Resource.

No Goal 5 resources are located on or near the property. Goal 5 does not apply.

3. Goal 6 - Air, Water and Land Resources.

Goal 6 relating to air, water and land resources does apply to this request for rezoning. Goal 6 requires local jurisdictions to ensure that waste and process discharges from development will comply with State and Federal regulations, and to ensure discharges will not degrade, overload or threaten availability of air, water and land. Considering the characteristics of the property, and that the proposed use is regulated for waste and process discharge, the request complies with Goal 6 and no exception is necessary.

4. Goal 7 - Areas Subject to Natural Disasters and Hazards.

There are no known natural hazards on or near the property. The property is not at risk for natural disaster. Goal 7 does not apply.

5. Goal 8 - Recreation Needs.

Goal 8 relating to recreation needs does not apply to this application.

6. Goal 9 - Economy of the State.

Goal 9 directs State and local planners to provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare and prosperity of Oregons citizens. Goal 9 applies to this application, but no exception to Goal 9 is required.

Roadrunner is a growing business that provides good paying jobs for the area. Bob Baker started Roadrunner Towing in 1969 with one tow truck. Roadrunner now employs twelve full time

employees and expects to add 3 to 4 more employees as its business expands. Most employees have a high school education, but no college education. The lowest paid position is \$11 per hour. The highest paid position is over \$20 per hour. Roadrunner provides paid leave time and medical benefits. These are above average jobs for Malheur County.

Further, Roadrunner provides economic advantage to the area because of its unique ability to clear road ways, recover perishable cargo and keep commerce moving.

7. Goal 10 - Housing.

Goal 10 requires Cities and Counties to plan for the housing needs of the citizens of the State. Rezoning the property to industrial use should not affect the Countys housing policy or the Countys obligations under Goal 10. No exception to Goal 10 is necessary, and Goal 10 does not apply to the Countys decision.

8. Goal 11 - Public Facilities and Services.

Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services for urban and rural development. The property is serviced by well and septic. Roadrunner's use does not require public water or sewer service. Other services are available including power, phone, police and fire protection. Changing the zoning should have no impact on public facilities and services. Goal 11 does apply to the Countys consideration on rezoning, but no exception to Goal 11 is required.

9. Goal 12 - Transportation.

Goal 12 requires the County to provide and encourage a safe, convenient and economical transportation system. Amendments to comprehensive plans and land use regulations that significantly affect a transportation facility must assure that allowed uses are consistent with the identified function, capacity and level of service of the transportation facility. See OAR 660-012-0060. Goal 12 applies to the Countys decision, but no exception is required. Transportation issues are addressed under Section VI, 4 of this application.

10. Goal 13 - Energy.

The proposed use and rezone will not significantly impact energy resources and no exception of Goal 13 is required.

11. Goal 14 - Urbanization.

No Goal 14 exception is required because some industrial uses are appropriate on rural land. Goal 14 requires Counties to provide for an orderly and efficient transition from rural to urban use. Urban uses of rural land must be supported by an exception to Goal 14. 1,000 Friends of Oregon v. LCDC

(Curry Co.), 301 Or. 447 (1986). The use proposed by Roadrunner is not an urban use of rural land. The use proposed by Roadrunner is an appropriate industrial, rural use.

There is no definition of rural use or urban use in Malheur County's Comprehensive Plan, State statute or State administrative regulation. Malheur County's land use regulations provide for industrial use in the County. LCDC administrative rules also provide for industrial use outside an established urban growth area. OAR 660-040-0022 allows industrial development on rural land through an exception to Goal 3. Industrial uses are neither inherently urban or inherently rural. 1,000 Friends of Oregon v. LCDC (Curry Co.), 301 Or. 447, 505-507 (1986). Whether a use is rural or urban must be decided on a case by case basis. *Id.*

The unique characteristics of Roadrunner's business make the business an appropriate industrial rural use for planning purposes. Roadrunner must have immediate and safe access to major transportation routes in the area. Roadrunner consistently moves large, heavy equipment at all times of the day or night, depending on when they are called to an accident scene. On a regular basis, Roadrunner retrieves wrecked and disabled vehicles in various states of repair and disability. Moving the disabled vehicles through urban areas can be dangerous. On a regular basis, Roadrunner retrieves cargo from accident scenes. The cargo may be in a condition that is dangerous to people in urban areas. To move commerce, the cargo is transferred to other trucks at all times of the day and night. The potential impacts of Roadrunner's business on typical urban uses make Roadrunner's use an appropriate rural industrial use. No exception to Goal 14 is required.

12. Goals 15 through 19.

Goals 15 through 19 relating to the Willamette River Greenway and Coastal areas do not apply.

IV. ANALYSIS REASONS EXCEPTION TO GOAL 3

Statewide Planning Goal 3 states:

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the State's agricultural land use policy expressed in ORS 215.243 and 215.700.

Rezoning the property to industrial use requires a Goal 3 exception. To establish that an exception is warranted, Goal 2 and OAR 660-040-0020 require that an applicant must demonstrate: (i) that there are reasons that justify why the State policy embodied in the applicable Goal should not be applied; (ii) that areas which do not require an exception cannot reasonably accommodate the use; (iii) that long-term environmental, economic social and energy (ESEE) consequences resulting from the use at the proposed site are not

significantly more adverse than would typically result in other areas requiring a goal exception; and (iv) the proposed uses are or can be made compatible with other adjacent uses.

The exception criteria are addressed individually below.

1. REASONS (OAR 660-040-0022).

An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the County economy and cause only minimal loss of productive resource land. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the County's gain from the industrial use, and the specific transportation and resource advantages which support the decision.

For Roadrunners' unique use, a property must have specific attributes. First, the property must be accessible without traveling through populated urban areas or on urban streets congested with commuter traffic or commercial traffic. Second, the property must be fronted on a major transportation route with safe, quick access to the main highways in the area.

1.1 Roadrunners use cannot be located inside an Urban Growth Boundary due to impacts that are hazardous or incompatible with urban uses. OAR 660-040-0022(3)(b).

Roadrunners' specific use cannot be located inside an urban growth boundary due to impacts that are incompatible with

urban areas. The impacts are discussed in detail in Section II of this application. Roadrunners business involves the movement of large trucks and cranes. Roadrunner frequently moves disabled and wrecked trucks, and other equipment, into and out of its facility. At times, Roadrunner may respond to 15 calls in one day on separate individual truck wrecks. Often disabled trucks are recovered and cargo is off loaded onto other trucks at Roadrunners facility. This work may occur at all times of the day or night. Moving heavy equipment and disabled trucks through densely populated urban areas is difficult and dangerous. Some recovered trucks and cargo should not be transported through urban areas because of the nature and condition of the wrecked truck or the cargo. For these reasons, Roadrunners business is not compatible with urban uses.

- 1.2 There is significant comparative advantage to locating Roadrunners use on this property which benefits the Countys economy and causes only minimal loss of productive resource land. OAR 660-040-0022(3)(c).

There is also a significant comparative advantage in locating Roadrunners use outside the UGA on this property, which would benefit the County economy with minimal loss of productive resource lands. Roadrunner has heavy recovery equipment that no other towing and recovery company in Eastern Oregon or Western Idaho has. That equipment includes an air bag recovery system, heavy duty tow trucks and cranes. Many times Roadrunner is the only towing and recovery business that can set a loaded cargo trailer back on its wheels and salvage the cargo.

An example will illustrate. Roadrunner sometimes gets direct calls to salvage perishable commodities, such as meat, fish and vegetables. Often a semi tractor and trailer are laying on their side, and may be blocking traffic. In this case Roadrunner would dispatch two Heavy tow trucks, a crane and the air bag recovery system. The truck and trailer can be set back on its wheels with Roadrunners equipment. The loaded trailer can be set upright with the air bag system, crane and trucks. This system saves time and may save the cargo. Without this system, the cargo must be off loaded by hand. The loaded trailer is then hauled to Roadrunners yard for off loading into a new truck. The truck and trailer are set back on their wheels, reopening the highway quickly and saving a perishable commodity. A property located outside urban areas with direct transportation routes allows Roadrunner to dispatch and return quickly and safely. The property considered for rezoning has direct access to Highway 201. At the point of access, Highway 201 has a controlled intersection and four lanes that travel around urban Ontario to Interstate 84. From this property, Roadrunner can access almost all major highways in the area without traveling through urban areas. This access provides safety for the public and fast response times to accident scenes. Location is a significant comparative advantage.

This location also benefits the County economy by the jobs Roadrunner creates, by saving perishable commodities and by moving commerce. Local police agencies rely on Roadrunner for emergency response to keep highways open and commerce moving.

Rezoning this site would cause minimal loss of productive resource lands because it has already been developed with a shop building and graveled with pit run gravel. It will probably never be economical to return the property to resource use. The property has been vacant almost three years.

For these reasons, there is significant comparative advantage to locating Roadrunner's use on this property which does benefit the County economy and causes minimal loss of productive resource land.

2. ALTERNATIVE SITES ANALYSIS (OAR 660-040-0020(2)).

(b) Areas which do not require a new exception cannot reasonably accommodate the use:

(A) The exception shall indicate on a map, or otherwise describe, the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a

local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

Alternative Site Analysis.

The alternative site analysis is limited to property within the City of Ontario and within Ontarios Urban Growth Area. Roadrunners unique use must be located within five (5) miles of Ontario, Oregon. This requirement removes surrounding communities of Vale and Nyssa from consideration as alternative sites. Roadrunner Towing's business is a unique use because of the nature of the work and the amount of Heavy truck traffic that flows through or within one mile of Ontario. All major North, South, East and West routes traveling through Eastern Oregon and Western Idaho travel through Ontario, or within one mile of Ontario. Because response time to an accident can be critical, Roadrunners facility must be located within five miles of Ontario. Roadrunners facility must also be located on property where access is available to major highways in the area without traveling through urban areas.

Roadrunners use must have a parcel of land of at least 9 acres to meet the following requirements of the use: (1) a secure indoor storage area sufficient to house police impounds, perishable commodities, other cargo and disabled vehicles; (2) a fenced, secure yard of sufficient size to accommodate disabled semi tractor trailers and store Roadrunners own equipment; (3) an area sufficient to off load and shift cargo from one semi tractor trailer to another; (4) an enclosed shop area sufficient for Roadrunner to maintain its own vehicles; (5) a business office area for dispatchers and clerical staff processing recovered vehicles and cargo; and (6) yard area sufficient to maneuver cranes, recovered vehicles and disabled vehicles.

In analyzing alternative sites, Roadrunner first identified all commercial and industrial zoned properties within the City of Ontario and Ontarios Urban Growth Area which are 9 acres or larger. This initial analysis was based on the records of the Malheur County Assessor and Malheur County Planning Department. The analysis breaks the City of Ontario and its Urban Growth Area into separate areas within the Urban Growth Area. Some areas may be excluded because the whole area does not meet the criteria for Roadrunners use. For those areas that do meet the criteria for Roadrunners use, Roadrunner analyzes the specific properties identified from the

Assessors information as being 9 acres or more in size and zoned commercial or industrial. The criteria used to analyze specific areas and properties includes: (1) at least 9 acres in size; (2) direct access to major transportation routes without traveling through urban areas; and (3) property available to be purchased.

A map of Ontario showing Ontarios Urban Growth Area and zoning designations is attached as Exhibit D.

In analyzing alternative sites, Roadrunner considered the following areas within the City of Ontario and Ontario's Urban Growth Area:

2.1 Northeast Ontario - North of Idaho Avenue and East of the Union Pacific Rail Line.

Northeast Ontario can not reasonably accommodate Roadrunner's use. The area North of Idaho Avenue and East of the Union Pacific Rail Line includes property zoned for Heavy Industrial Use within the City and within the UGA. All of the property within the City is already developed. All but a few parcels zoned Industrial are owned by Heinz Company which operates Ore-Ida Foods on 48.96 acres within the City and 195.11 acres within the Urban Growth Area. All property within the UGA in this area is owned and operated by Heinz. No property is available in Northeast Ontario which meets the criteria for Roadrunners use.

Further, access to major highways in the area would require Roadrunners trucks to mix with commuter traffic and consumer traffic along Idaho Avenue. East Idaho Avenue handles a large volume of commuter traffic from the state of Idaho coming into Oregon to work and shop. It is not prudent to move large trucks, cranes and disabled vehicles along Idaho Avenue mixed with commuter and commercial traffic.

2.2 Southeast Ontario - South of Idaho Avenue and East of Union Pacific Rail Line.

The area South of Idaho Avenue and East of the Union Pacific Rail Line can be further divided into two distinct areas - the area East of Interstate 84 and the area between Interstate 84 and the Union Pacific Rail Line.

(A) Area South of Idaho Avenue and East of Interstate 84.

The property lying East of Interstate 84 and South of Idaho Avenue can not reasonably accommodate Roadrunners unique use. The commercial properties between Idaho Avenue and Southeast 5th Avenue have been developed to Commercial use. The corners of East Lane and Southeast 5th Avenue are developed to a Bank, a Neocropsy Clinic, an equipment rental store and a strip mall. There is a theater on the corner of Southeast 13th Street and

Southeast 5th Avenue. Along Southeast 13th Street a bowling alley, office supply store, Dominos Pizza and car lot are developed. Kmart, Walmart, McDonalds, Home Depot, motels and other commercial uses line East Idaho Avenue East of I-84. Oregon draws a large number of workers and shoppers from Idaho. A high volume of commuter and commercial traffic follows East Idaho Avenue and Southeast 5th Avenue.

Movement of salvaged loads and recovered vehicles through this area would impede traffic in this area. Most of Roadrunners equipment cannot turn at a turning radius equal to traffic in the area. Moving Roadrunner s equipment through this area would cause traffic congestion on roadways which already handle a large volume of commuter and commercial traffic.

Roadrunner is constantly moving heavy equipment and disabled vehicles. Access to the Industrial area East of Interstate 84 and South of Idaho Avenue must pass through the commercial traffic and commuter traffic. Because of the difficulty in moving the heavy equipment and disabled vehicles through commercial traffic and commuter traffic, the area East of Interstate 84 and South of Idaho Avenue does not meet Roadrunners criteria. Locating Roadrunner in this area would cause traffic problems and create safety issues.

(B) Area South of Idaho Avenue Lying East of Union Pacific Rail Line and West of Interstate 84.

The area lying South of Idaho Avenue between Interstate 84 and the Union Pacific Rail Line is not appropriate for Roadrunners use because it has poor access to major highways, and because access to major highways from this area requires travel through urban areas.

In this area, properties North of Southeast 9th Avenue are mostly developed to commercial and residential use. The industrial property along the rail lines is developed to onion storage and processing sheds. Between the rail line and Interstate 84 along Idaho Avenue are restaurants, tire stores, gas stations and other similar commercial uses. Idaho Avenue carries a large volume of commuter and commercial traffic from Oregon and Idaho. For safety reasons and traffic management, Roadrunners recovery trucks and cranes should not be routed through the area North of Southeast 9th Avenue.

Properties located South of Southeast 9th Avenue between the rail line and Interstate 84 do not meet the criteria for Roadrunners use. First, the properties in this area do not have direct access to the seven major highways that pass through the Ontario area. Access to the South interchange on Interstate 84 must travel through the commercial and residential areas North of Southeast

9th Avenue and travel through commercial traffic and commuter traffic on Idaho Avenue. For safety and traffic management, routing recovery vehicles and disabled vehicles through the area North of Southeast 9th Avenue is not appropriate.

Southwest 18th Avenue is the only road South of Southeast 9th Avenue with a railroad crossing. An overpass, going over the rail line, was constructed for Southwest 18th Avenue a few years ago. The overpass was in part constructed to accommodate produce trucks bringing produce into the onion sheds along Southeast 2nd Street and Southeast 1st Street. North of Southeast 18th Avenue along Southeast 2nd Street and Southeast 1st street are two of the communitys largest onion processing facilities. Accessing major highways in the area via Southwest 18th Avenue increases response time and places recovery vehicles on a main route for many of the areas agricultural commodities. Southwest 18th Avenue is a two lane paved road designated as an urban collector by the County and a minor arterial by the City. During months in the Fall, onion trucks use 18th Avenue to access the several onion storage and processing sheds along the rail line. Treasure Valley Renewable Resources (TVRR) has preliminary approvals for an ethanol plant South of 18th Avenue. Trucks hauling grain to TVRR will use 18th Avenue for access. Eighteenth Avenue also accommodates regular commuter and farm traffic. For safety and traffic management, routing recovery vehicles and disabled vehicles along Southwest 18th Avenue is not appropriate.

Further, the area South of Southeast 9th Avenue does not have direct access to the six major highways which pass through the Ontario area, which increases accident response time. Response time can be critical to reopening major transportation routes and recovering perishable cargo.

2.3 Southwest Ontario - South of Idaho Avenue and West of the Union Pacific Railroad.

Southwest Ontario includes the area South of Idaho Avenue and West of the Union Pacific Railway, within the City and the UGA. Most of this area is zoned and developed to residential use. Treasure Valley Community College and residential neighborhoods lie in the center of this area.

Industrial properties along Southwest 4th Street and the Union Pacific Rail Line do not meet the criteria necessary for Roadrunners use. The only property North of Southwest 18th Avenue in this area that exceeds 7 acres in size is at the Northeast corner of SW 4th Street and Southwest 18th Avenue. The property is developed with a Simplot Soilbuilders facility and it is not available.

There are several parcels South of Southwest 18th Avenue between Southwest 4th Street and the rail line. These

properties cannot accommodate Roadrunners use because of access and traffic problems. That portion of Southwest 4th Street lying South of Southwest 18th Avenue is a dead end street. If a loaded recovery vehicle or a trucking company misses the driveway to one of these properties, there is no area to turn around. The intersection at Southwest 4th Street and Southeast 18th Avenue lies at the bottom of the overpass over the railroad tracks and the intersection is not controlled by stop lights. Loaded recovery vehicles and trucks entering and exiting off Southwest 4th Street onto 18th Avenue would have a difficult time negotiating this intersection. The problem would be exacerbated for two months in the Fall when a large volume of onion trucks are hauling onions into the sheds East of this intersection.

In analyzing potential alternate sites, Roadrunner reviewed all properties zoned for industrial or commercial use within Ontario's UGA and greater than 9 acres. There are four properties near the intersection of Highway 201 and 18th Avenue that have good access to major highways in the area, without traveling through populated urban areas. Those properties include the following:

Site #	Property
1	Hollingsworth, Inc. property Map No. 18S4707 Tax Lot 3000 Zoned UGA Commercial 21.55 acres, owner is willing to split off and sell approximately 10 acres, undeveloped land.
2	City of Ontario Map No. 18S4707 Tax Lot 3001 Zoned UGA Commercial 14.12 acres
3	City of Ontario Map No. 18S4707 Tax Lot 3400 Zoned UGA Commercial 7.08 acres
4	City of Ontario Map No. 18S4707 Tax Lot 3300 Zoned UGA Commercial 23.54 acres

Tax Lots 3300 and 3400 are part of Ontario's municipal golf course and they are not available for sale.

Tax Lot 3001 is located in the Runway Protection Zone for the Ontario Municipal Airport. See Exhibit E, Letter from Tom Lemenger. Exhibit E includes the Applicant's letter to Tom Lemenger with measurements off the end of the airport runway and Mr. Lemenger's letter based on those measurements.

Tax Lot 3000, the Hollingsworth property, is also within

the approach zones for Ontario Airport. In addition to other restrictions on use, there is an absolute objective height restriction based on approach zones to the airport. Roadrunner measured distances to the Hollingsworth property from the end of the runway and elevations. The measurements were sent to Tom Lemenager, an engineer and airport planner. Mr. Lemenager concluded generally that maximum height of activities on the West one-third of the Hollingsworth property is currently 38 feet. If the runway is expanded as planned, maximum height would be 22 feet. The antenna for Roadrunners radio dispatch system is 30 feet tall. In transferring loads by crane, the boom on the cranes extend 60 to 100 feet, depending on the weight and nature of the load. Because Roadrunners structures and activities would extend up into the airport approach zones, the Hollingsworth property is not a viable alternative.

Roadrunners study of properties within the UGA show only three other properties in Southwest Ontario which are zoned Commercial or Industrial, and which are greater than 7 acres in size. Those properties include the following:

Site #	Property
5	Strey Family Trust Map No. 18S4708 Tax Lot 2800 Zoned UGA Commercial 9.7 acres at 698 SW 30 th Street
6	Strey Family Trust Map No. 18S4708 Tax Lot 2900 Zoned UGA Commercial 9.69 acres at 740 SW 30 th Street
7	Saito-Mathews, Inc. Map No. 18S4708 Tax Lot 2300 Zoned UGA Commercial 57.59 acres at 765 SW 24 th Street

The Saito property is vacant farm land. Access to the Saito property is through SW 24th Street onto SW 4th Avenue. Between the Saito property and SW 4th Avenue are residential houses, the Ontario Villa apartments, a car lot and Edge Performance Sports Honda dealership. The intersection of SW 24th Street and 4th Avenue is an uncontrolled intersection. The Saito property cannot reasonably accommodate Roadrunners use because it is adjacent to residential property, and Roadrunners trucks must travel through congested urban areas for access to major highways in the area. Further, routing recovery trucks, cranes and trucks towing disabled vehicles through the uncontrolled intersection of SW 4th Avenue and 24th Street creates an unacceptable risk of conflict with commercial and commuter traffic.

The two Strey properties cannot reasonably accommodate Roadrunners use. First, both properties are zoned for Commercial use. The area and these specific properties are already developed to commercial uses. A pickup canopy business

is currently on the Strey property. To the North are government office buildings. To the South is an automobile repair shop. West across Highway 201 is a used car dealership and various other commercial properties. Northwest approximately 1/4 mile is the property purchased by Ontario School District for a new high school. The area is developing to commercial uses and it is not appropriate to locate Roadrunners use in the middle of commercial uses and commercial traffic.

Further, access onto Highway 201 from both properties is uncontrolled. Because the Strey properties are not likely to be rezoned to an industrial type use and because of difficult access for Roadrunners use, the Strey properties are not reasonable alternatives.

2.4 Northwest Ontario - North of Idaho Avenue and West of Railroad and I-84.

No property in Northeast Ontario can reasonably accommodate Roadrunner's use. Northwest Ontario includes that area within Ontario's UGA North of Idaho Avenue and West of the Union Pacific Rail Line and Interstate 84. Most of this area within the City and the UGA is zoned for residential use.

The area within Ontario's Urban Growth Area lying North of Malheur Drive includes property zoned for Light Industrial Use and Heavy Industrial Use. The areas zoned for Industrial use in this area are within the 100 year flood plain. A Federal Emergency Management Agency map is attached to this application as Exhibit F. The map shows the flood zones.

Properties within the 100 year flood plain are not reasonable alternative sites. See Exhibit G, Letter from Malheur County Sheriff Andy Bentz. Roadrunner is in the business of responding to natural hazards. Most of Roadrunners work is a result of adverse weather conditions which disable vehicles and cause accidents. Police agencies rely on Roadrunner to open roads by removing wrecked and disabled vehicles. In the event of a flood, those same police agencies would rely on Roadrunner to remove wrecked and disabled vehicles to open roads for regular traffic and emergency response vehicles. If Roadrunners business itself was flooded, Roadrunner could not respond to remove disabled vehicles. Properties within the 100 year flood boundary should not be considered alternative sites for Roadrunners use.

2.5 Resource Land Irrevocably Committed to Nonresource Use and Rural Centers.

The Property for rezoning has been irrevocably committed to nonresource use. Roadrunner has reviewed all areas within five miles of Ontario, Oregon and outside Ontario's UGA. There is no property in this area irrevocably committed or part of a rural center that can accommodate Roadrunner's use.

2.6 Increasing Density of Uses on Nonresource Land.

No property within the City of Ontario or Ontario's UGA can reasonably accommodate Roadrunner's use by increasing the density of use. A review of the zoning map at Exhibit D shows there is no property where the density of use could be increased that would also result in conflicts with the intensity of Roadrunner's unique use as described above.

3. EESE ANALYSIS (OAR 660-040-0020(2)(c)).

(c) The long-term environmental, economic, social and energy [EESE] consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative area considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertions that the sites have significantly fewer adverse impacts during the local exception proceeding. The exception shall include the reason why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring goal exceptions other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the cost of improving roads and on the costs to special service districts.

EESE Analysis.

The long term environmental, economic, social and energy consequences resulting from Roadrunner's proposed use of the Property are significantly less than would result from the same use being located in another area that requires a goal exception.

The property is developed with a 20,396 square foot metal shop with cement floor. The entire remainder of the property has been graveled with approximately 12 inches of pit run gravel. Services are developed on Well and Septic System. With this level of development, the property will probably never be returned to resource use. The property is directly Southwest of property included within Ontario's UGA. Ontario is in the process of going through periodic review of its Comprehensive Plan and Ontario will seek to include the property within its Urban Growth Area under Ontario's new Comprehensive Plan. Two acres of the property are already

zoned for commercial use. The long term environmental, economic, social and energy consequences resulting locating the use on this property are significantly less than locating the use on other resource lands that are still in farm use and require a goal exception.

Alternative areas that meet Roadrunners access requirements are limited to areas North of Ontarios North interchange for Interstate 84 and the Stanton Boulevard interchange on Interstate 84. For the reasons described below, rezoning the proposed Property has fewer adverse environmental, economic, social and energy consequences than surrounding properties that require an exception. Surrounding properties that require an exception are all in some form of agricultural use.

3.1 Environmental.

The environmental impact resulting from the proposed use of this property are not significantly more adverse than would result from the same use being located in other areas requiring a goal exception.

Other areas requiring a goal exception would require property be changed out of agricultural use. This property has been graveled with a 12 inch layer of pit run gravel and improved with a 20,396 square foot shop building. A well and septic system have already been established on the property. Roadrunner conducts its current business on a parcel adjacent to the Property for rezoning. The environmental consequences of developing any property which is currently being farmed to Roadrunners proposed use would be greater than using the property proposed for rezoning.

(a) Noise, Dust, Odor, Lights, Emissions.

Roadrunners use certainly will have an environmental impact from noise, odor and lights. The impacts from noise, odor and lights will be less on this property than other properties outside the UGA because of the area where this property is located. This property is located adjacent to Highway 201 which runs traffic which emits noise and auto emissions at all times of the day and night. This property also lies adjacent to Roadrunners current operation and across Highway 201 from Hollingsworths John Deere dealership. Both of these businesses currently have an impact with noise, odor and lights. Locating the business on any other property in the area would bring these impacts to a property that does not currently experience these impacts.

Dust will not be an issue for Roadrunners use. The parcel will be graveled and Roadrunners activities will not emit any measurable quantity of dust.

Emissions of smoke from Roadrunners trucks on the property proposed for rezoning will not be any greater

than emissions on Roadrunners adjacent property where it currently conducts its business.

(b) Sewage and Water Service.

Roadrunner has minimal needs for sewage and water service. Water is needed for drinking and to wash equipment. Sewage is needed for the 10 - 15 employees who may be on shift at any given time. The property currently has a disposal system for water off an equipment wash, well and sewage system. The soil is adequate for disposal of sewage and the well does not interfere with other water rights. Considering Roadrunners minimal requirements, the environmental impact of developed sewage and water on this property are equal to or less than other properties in the area.

(c) Storm Water.

The property is graveled with pit run gravel. Roadrunner will not pave the property with asphalt. Storm water off the building percolates down through the gravel and is disposed of on site. There is no environmental impact on storm water.

3.2 Economic.

The economic impact of locating Roadrunners use on the subject property should be more favorable than locating the use on any other property requiring a goal exception. Locating the use on any other property in the Ontario area would require removing that property from farm use, while the property proposed for rezoning is already converted out of farm use. Roadrunner has not been able to find any other property within 5 miles of Ontario that requires an exception and has already been developed out of farm use. There will be no long term economic impact from removal of the property from resource use because the property has already been irreversibly removed from resource use. Rezoning other property in the area would remove it from farm use.

Roadrunner has outgrown its current facility. Roadrunner must locate its business on a property where it has safe, convenient and quick access to major highways in the area. Roadrunner is part of the group of agencies and private businesses that keep commerce moving through our County. For these reasons, there is an economic advantage to the County in locating Roadrunners use on this parcel.

Finally, Roadrunners use is compatible with farming on adjacent lands. Moving heavy equipment and disabled vehicles at all times of the day and night should not have any impact on farming surrounding land. Roadrunners use is not a manufacturing use. Roadrunners use does not create emissions

of dust or chemicals. There should be no negative impact on surrounding farm lands.

3.3 Social.

The advantage of the proposed site over other resource lands is this land meets the criteria Roadrunner must have to effectively operate its business. Those criteria include safe and ready access to major highways in the area. In turn, Roadrunner is able to serve the community by responding to accidents, clearing roadways, recovering perishable commodities and helping to keep commerce moving. Although Roadrunner is a private business, these services are important to the community. It is an advantage to the community and the local economy to provide a parcel of property where Roadrunner can safely and effectively conduct its business.

3.4 Energy.

Locating Roadrunners use on this property should have no more and no less impact on long term energy consequences resulting from the use than any other resource lands. Roadrunners use does not consume large quantities of energy. Roadrunner uses electric power and the property is serviced by a major transmission line. The property is located adjacent to a main Highway in the area. This access will reduce the amount of fuel used in responding to accidents, natural hazards and disabled vehicles. Locating Roadrunners use on this property will not disrupt any energy service for other uses in the area or require any change in the provision of any energy resources in the area. Roadrunners use is not the kind of use that could benefit from alternative energy sources such as wind or geothermal.

4. COMPATIBILITY (OAR 660-040-0020(d)).

The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Roadrunners proposed use is compatible with surrounding farming practices. Surrounding farm land is used to raise row crops and alfalfa hay. There is no livestock raised within one mile of the property. Roadrunner s only emissions from the property are noise and lights. On surrounding hay ground, farming practices include cutting, raking, baling and hauling hay, 4-5 cuttings each year. Surrounding row crop ground may raise wheat, onions, corn, potatoes, and a variety of other row crops. Practices include farming the property and harvesting the crops with tractors and farm implements. These activities are performed with large diesel tractors and other equipment.

Most baling is done at night. Roadrunners activities are similar to surrounding farm practices. Roadrunners activities and surrounding farm practices are compatible. There will not be conflict.

(v) OAR 660-004-0018 - Planning and Zoning for Exception Areas.

(4) *Reasons Exceptions:*

(a) *When a local government takes an exception under the Reasons section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*

(b) *When a local government changes the types of intensities of uses or public facilities and services within an area approved as a Reasons exception, a new Reasons exception is required.*

The plan and zone designations placed on the 7.22 acres by the County must limit Roadrunners use to those unique activities that justify the reasons for the exception. To appropriately limit the uses of the property to those justified by the exception, the Countys plan and zone designations should provide that uses are limited to a towing and recovery business and those uses incidental to a towing and recovery business.

V. ANALYSIS MALHEUR COUNTY COMPREHENSIVE PLAN GOALS.

1. Goal 1 - Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

The goal is met through the public participation provisions of Malheur Countys Zoning Ordinances and Comprehensive Plan.

2. Goal 2 - Land Use Planning: To establish a comprehensive planning process and policy framework as a basis for all decisions and actions related to land use, and to assure an adequate factual base for those decisions and actions.

This goal is met through the procedures in Malheur countys Comprehensive Plan and Zoning Ordinance.

3. Goal 3 - Agricultural Lands: To preserve and maintain the agricultural land in the County for agricultural purposes.

The property has been developed to the degree that it will not be returned to agricultural use. The County will not loose any land from its agricultural land base as a result of allowing the zone change. The County must find an

exception to State Goal 3 is justified to rezone the property. The justification for the exception to State Goal 3 justifies an exception to County Goal 3.

4. Goal 4 - Forest Lands: To preserve and maintain forest lands for allowable agricultural and forest uses.

There are no Goal 4 resources on or near the property. This Goal does not apply.

5. Goal 5 - Open Space, Scenic and Historic Areas and Natural Resources: To conserve open space and protect natural and scenic resources.

There are no Goal 5 resources on or near the property. This Goal does not apply.

6. Goal 6 - Air, Water and Land Quality: To maintain and improve the quality of Malheur Countys air, water and land resources.

Use of the property will be limited by the Countys plan and zone designations in accordance with the State requirements for the reasons exception to Goal 3. The rezoning and use of the property as described in this Application will not have any adverse impact on air, water or land quality. The impact of Roadrunner's proposed use will be equal to or less than the approved use as an equipment sales and service dealership.

7. Goal 7 - Natural Disasters and Hazards: To protect life and property from natural disasters and hazards.

There are no natural hazards on the property. The property is outside identified flood plains. The proposal complies with Goal 7.

8. Goal 8 - Recreation: To meet the park and recreation needs of the citizens of Malheur County and visitors.

The Goal is not applicable to this Application.

9. Goal 9 - Economy: To diversify and improve the economy of Malheur County.

Allowing the proposed rezoning promotes the Countys Goal 9 and several of the policies under Goal 9. Allowing the rezone promotes the local economy in two important ways. First, Roadrunner provides jobs that pay better than the average wage for the County. Roadrunner employs twelve full time employees and the company is growing. Jobs pay \$11 per hour to more than \$20 per hour with paid leave time and health insurance. According to the Oregon Economic and Community Development Departments (OECD) most recent figures, the average hourly wage for an employee in Malheur County is \$11.62 per hour. The most recent unemployment rate published by OECD is for 2003 and

the unemployment rate was 9.8%. Nonfarm payroll in 2003 was \$11,640, down \$200 from 2002(see Exhibit H). Roadrunner began in 1969 with one truck. Through growth in the business and two highway condemnations, Roadrunners property is not adequate for the size of its business. The proposed rezone allows a business with above average jobs to continue and grow.

Second, Roadrunner benefits the economy as an emergency responder. Local police agencies rely on Roadrunner to respond to accidents and natural disasters. Roadrunner is the only recovery company in Malheur, Baker and Harney Counties, Oregon and the Western Idaho Counties with an air bag recovery system and the equipment to save perishable agricultural commodities in some accidents. Roadrunner benefits the economy by saving perishable commodities and keeping the roads open during inclement weather.

Goal 9, Policy 3, provides the County will zone adequate land for needed industrial and commercial development. Roadrunner is a unique business with unique impacts on urban uses. Roadrunners use belongs in the County, and Roadrunner benefits the County economy.

10. Goal 10 - Housing: To provide reasonable land use policies at minimal government interference to ensure citizens have ample opportunity to obtain adequate housing.

This Application proposes no change in housing policy in the County. This Goal is not applicable to this Application.

11. Goal 11 - Public Facilities and Services: To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The property is already developed and serviced by well and septic. Public facilities and services currently provided are adequate for Roadrunners use. No change in demand for public facilities or services will be necessary after rezoning. The property is within a fire protective district. Roadrunners use of this location should benefit police resources because of ease of access and quick response times. Considering the nature of Roadrunner's business, and the location of Roadrunner's current business, there should be no impact on public facilities and services. The proposal should not have any significant adverse impact on public facilities and services.

12. Goal 12 - Transportation: To provide and encourage a safe, convenient, and economic transportation system.

Roadrunner currently operates on adjacent property fronting Highway 201. If the proposed rezone is allowed,

Roadrunner would access public roads from driveways on Southwest 18th Avenue. Access for Roadrunners business from the property onto Southwest 18th Avenue will not have a significant adverse impact on traffic in the area.

The current allowed use of the Property is a commercial use in conjunction with farm use. The Property was developed in 2000 for a farm equipment dealership and repair facility. Roadrunner's towing and recovery business will not generate any more traffic than the current approved use.

13. Goal 13 - Energy: To conserve energy.

Allowing the proposal will not have any significant impact on energy resources because the parcel is adjacent to Roadrunners current business and no new energy demands will be created by moving the business. Roadrunners business is not the type of business that can take advantage of alternate energy sources. Efficiency is improved by locating the business close to major transportation routes, like Highway 201.

14. Goal 14 - Urbanization: To provide for an orderly and efficient transition for rural and urban use.

As described in III, paragraph 11 above, Roadrunners use is an appropriate rural use for rural industrial property. State and County planning goals recognize some industrial uses appropriate rural uses. The proposed use is consistent with Malheur Countys Goal 14.

VI. ANALYSIS MALHEUR COUNTY ZONING ORDINANCE CRITERIA.

Section 6-10-7 of the Malheur County Zoning Ordinance sets forth the review criteria for proposed Legislative amendments. Notwithstanding the fact that the Zoning Map and Goal 3 Exception requests are being processed as quasi-judicial decisions, the Legislative criteria are applicable because they relate to Zone Map and Comprehensive Plan Map and text amendments. The criteria described in Malheur County Zoning Ordinance 6-107 are set out below.

Section 6-10-7. *Compliance with the Comprehensive Plan in considering an amendment to the text or the Zoning Maps, the Planning Commission and County Court shall determine the following.*

Section 6-10-7 A. *That the proposed change is consistent with the Comprehensive Plan. MCZO §6-10-7.*

For the reasons set out in Section V above, the Application is consistent with the Countys Comprehensive Plan. Further, for the reasons described in Section IV, an exception to State Goal 3 and County Goal 3 are justified.

Section 6-10-7 B. *The level of development in other locations has reached the point where additional land is needed for the proposed uses and that the area of the proposed change can best meet such needs.*

Roadrunners use is unique. The parcel to be used by Roadrunner must have immediate access to major highways in the area without having to travel through urban areas, and the property itself should be located outside urban areas to avoid impacts on urban uses. Because Roadrunner is an emergency responder, the property cannot be located in the 100 year flood plain. For the reasons stated above, the property must be located within five miles of Ontario, Oregon. Roadrunner has not found any parcel of land zoned for industrial or commercial use of the size needed by Roadrunner with these characteristics. Considering the characteristics a property must have to meet Roadrunners needs, the area of the proposed zone change best meets those needs without taking farm land out of farm use.

Section 6-10-7 C. *That adequate rural services are available and will not be overburdened.*

Roadrunner has minimal needs for water and sewer service. The well and septic established and used by Ontario New Holland will be more than adequate to serve Roadrunners needs. The property is within a fire protection district. Police services can easily be provided by the County Sheriff. Stormwater will be disposed of on site. Electricity and telephone are already extended to the property. Roadrunner currently operates on adjoining property. Adequate rural services are available and will not be overburdened by Roadrunners use.

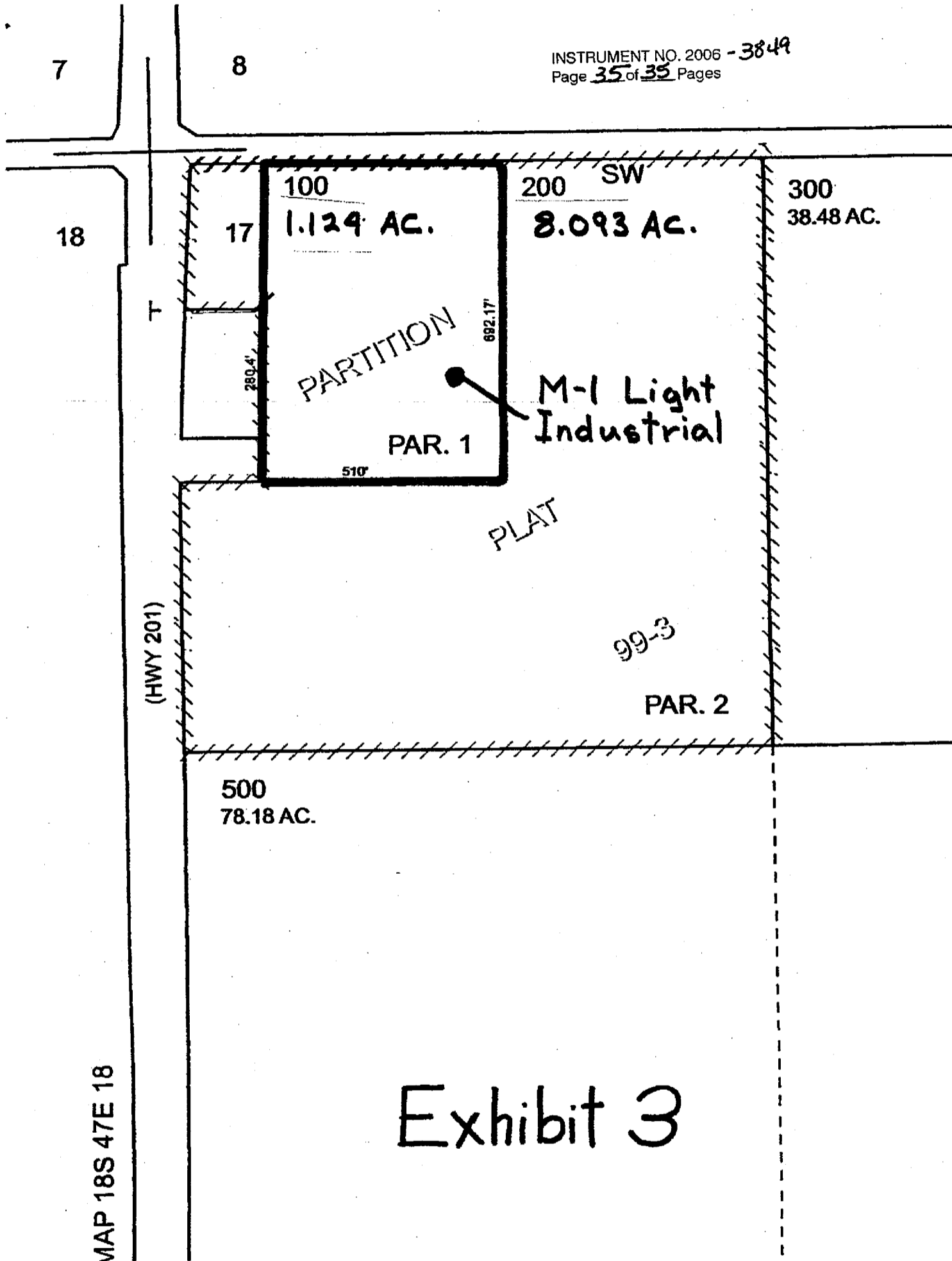
Section 6-10-7 D. *That amendments to the zoning text or zoning map would significantly affect the transportation facility, shall assure that the allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This is accomplished by one of the following:*

1. *Limiting allowed land uses to be consistent with the planned function of the transportation facility;*
2. *Amending the Transportation System Plan to ensure that existing improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or*
3. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*

A text or zoning map amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;
2. Changes standards implementing a functional classification system;
3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
4. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan (Ord. 125, 6-20-2000).

The current allowed use of the Property is a commercial use in conjunction with farm use. The Property was developed in 2000 for a farm equipment dealership and repair facility. Roadrunner's towing and recovery business will not generate any more traffic than the current approved use.



MAP 18S 47E 18

Exhibit 3